

JENNIFER K. ZELENY (Bar No. 15044)
HEPWORTH MURRAY & ASSOCIATES
140 South Main Street
Bountiful, UT 84010
Telephone: (801)872-2222
jennifer@hepworthmurray.com
Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

HAROLD MARK TORBETT (A.K.A. MARK
TORBETT) and REGINA TORBETT

Plaintiffs,

vs.

THE CITY OF OGDEN, OGDEN CITY POLICE
DEPARTMENT, CODY MARSH, Z. MARTIN,
T. WILLIAMS

Defendants.

**PLAINTIFF'S DISCLOSURE OF
EXPERT TESTIMONY AND
CERTIFICATE OF SERVICE OF
PLAINTIFF'S EXPERT REPORT**

Civil No. 1:16-cv-00044-BSJ
Judge: Hon. Bruce S. Jenkins

Plaintiffs by and through counsel Jennifer K. Zeleny and the law firm of HEPWORTH MURRAY, make the following disclosures and designations pursuant to Federal Rules of Civil Procedure 26(a)(2):

RETAINED EXPERT(S) WHO MAY BE USED TO PRESENT EVIDENCE AT TRIAL

1. Ronald J. Hergert, DBA – Ron Hergert Consulting
 - a. Mr. Hergert's statement of opinions and the basis and reasons for them are included in his report provided herewith.
 - b. The facts and data considered by Mr. Hergert in forming his opinions are listed and/or described and included in his report provided herewith.

- c. The documents referenced in Mr. Hergert's report have already been provided to Defense counsel and / or have been provided to Plaintiff's counsel by the Defense. If additional copies are needed, Defense counsel should contact the undersigned and the same will be provided.
 - d. Mr. Hergert's Curriculum Vitae is provided herewith and further information is included in the report, including but not limited to, his education, certifications, experience, and memberships.
 - e. A list of all other cases in which Mr. Hergert has testified as an expert either at trial, deposition, or administrative hearings, is provided in his report and/or CV.
 - f. Mr. Hergert's fee schedule is set forth in his CV. He charged \$700.00 for his initial report.
- 2. These disclosures and Mr. Hergert's report may be modified and amended as more information is made available through the discovery process.
 - 3. Additional disclosures as to the causation of injuries may be provided at a later date, pursuant to the Amended Scheduling Order signed by the Court on November 18, 2016.

NON-RETAINED EXPERTS

The Plaintiff(s) may call any and all treating physicians and/or medical professionals to opine as to the causation, treatment, and cost of Plaintiff Harold Mark Torbett's injuries. The Plaintiff(s) may also call any and all treating physicians and/or medical professionals to opine as to the effects of the Plaintiff Harold Mark Torbett's elevated blood sugar at all times relevant hereto. They are expected to testify, based upon their training and experience, that Plaintiff Harold Mark Torbett's encounter with the Defendant Officers resulted in a broken femur, concussion, and Post Traumatic Stress Disorder, and that Plaintiff Harold Mark Torbett exhibited an altered mental state at all times relevant hereto based upon an elevated blood sugar, diabetic ketoacidosis, and diabetic encephalopathy.

DATED December 1, 2016.

/s/ Jennifer K. Zeleny
Jennifer K. Zeleny
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I transmitted a true and correct copy of the foregoing Disclosure without the referenced exhibits or attachments by filing the same with the Court, and with exhibits and attachments, including Mr. Hergert's Report, on the following parties by U.S. Mail, first class postage prepaid and by electronic mail, to:

STEPHEN F. NOEL
Smith Knowles
2225 Washington Blvd., Ste. 200
Ogden, UT 84401
snoel@smithknowles.com

/s/ Jennifer K. Zeleny
Jennifer K. Zeleny
Attorney for Plaintiffs